

1 THE HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 CURTIS PEDERSON,
11 Plaintiff,
12 v.
13 NOVARTIS PHARMACEUTICALS
14 CORPORATION,
15 Defendant.

Case No. 3:20-CV-05216-RBL

DECLARATION OF JENNIFER L.
CAMPBELL IN SUPPORT OF
DEFENDANT NOVARTIS
PHARMACEUTICALS
CORPORATION'S MOTION TO
DISMISS OR, IN THE ALTERNATIVE,
MOTION FOR MORE DEFINITE
STATEMENT AND MEMORANDUM
OF LAW IN SUPPORT

**NOTE ON MOTION CALENDAR:
MAY 8, 2020**

I, Jennifer L. Campbell, hereby certify and declare as follows:

1. I am an attorney of record representing Defendant Novartis Pharmaceuticals Corporation (“Defendant”) in the above-captioned matter. I am over the age of eighteen (18) and otherwise competent to testify to the facts stated herein. I make this declaration based on my review of the documents provided in this litigation.

2. Attached as Exhibit 1 is a true and correct copy of a March 12, 2015 medical record of plaintiff from Oregon Health & Science University.

3. Attached as Exhibit 2 is a true and correct copy of a May 21, 2018 medical record of plaintiff from Oregon Health & Science University.

DECLARATION OF JENNIFER L. CAMPBELL IN SUPPORT OF
DEFENDANT NOVARTIS PHARMACEUTICAL CORPORATION'S
MOTION TO DISMISS: CASE NO. 3:20-CV-05216-RBL- 1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206-622-1711

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated this 10th day of April, 2020.

/s/ Jennifer L. Campbell
Jennifer L. Campbell, WSBA #31703

DECLARATION OF JENNIFER L. CAMPBELL IN SUPPORT OF
DEFENDANT NOVARTIS PHARMACEUTICAL CORPORATION'S
MOTION TO DISMISS: CASE NO. 3:20-CV-05216-RBL- 2

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SCHWABE, WILLIAMSON & WYATT, P.C.
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1420 5th Avenue, Suite 3400
Seattle, WA 98101-4010
Telephone: 206-622-1711

Exhibit 1



3181 S W Sam Jackson Park Pederson, Curtis R
 Road MRN: [REDACTED], DOB: [REDACTED], Sex: M
 Mailcode: OP17A Encounter date: 3/12/2015
 University Hospital South
 Portland OR 97239-3011
 Individual Notes

Addendum Note by Michael D Dellinger, MD at 03/17/15 1408 (continued)

Modules accepted: Level of Service

Electronically Signed by Michael D Dellinger, MD 03/17/15 1408

Progress Notes by Michael Heinrich, MD at 04/06/15 1332

Author: Michael Heinrich, MD	Service: (none)	Author Type: Physician
Filed: 04/09/15 2106	Encounter Date: 4/6/2015	Status: Signed
Editor: Michael Heinrich, MD (Physician)		

Medical Oncology Clinic

Primary Care Provider: Albert Dipiero, MD
 Referring Provider: Michael J Mauro, MD
 MEMORIAL SLOAN KETTERING CANCER CENTER
 1275 YORK AVE
 BOX 489
 NEW YORK, NY 10065

SUBJECTIVE: Mr. Pederson is a 68-year-old male with chronic-phase CML, currently on third-line therapy with nilotinib. His current nilotinib dose is 300 mg once daily.

INTERVAL HISTORY: Since last being seen 3 months ago, the patient has had several cerebellar strokes and was hospitalized in the Legacy Health Care System. These were manifested by loss of balance, falling to the ground episodes. The patient had previously been on aspirin, but was started on clopidogrel following these episodes. These episodes were several weeks ago. He has not had any repeat episodes since then. He has been taking the nilotinib without any incident. He denies nausea, vomiting, diarrhea. He has noted decreased hair on his arms and legs and back since being on nilotinib. He denies nausea, vomiting, diarrhea. No peripheral edema. No skin rash. The patient has been losing weight as he has now adopted a vegan plus fish diet. His blood pressure medications were also adjusted following his stroke.

IMPRESSION: Chronic-phase chronic myelocytic leukemia. His laboratory studies from last week showed no evidence of pancreatic or liver toxicity. His creatinine was noted to be elevated at 1.8, and his potassium which has been elevated over the last month or so was also elevated at 5.8. We will recheck his creatinine and potassium today. I will follow up with Dr. Dipiero. His EKG shows no evidence of toxicity. His PCRs have been undetectable, although the 1 drawn most recently is still pending.

PLANS:

1. Recheck creatinine and potassium today.
2. Continue nilotinib 300 mg once daily.
3. Follow up on PCR result from today.
4. Return to clinic in 3 months for toxicity check, laboratory testing and PCR testing at that time.

Results for PEDERSON, CURTIS R (MRN 06005733) as of 4/6/2015 13:31

	Ref. Range	12/12/201 3 07:35	3/12/2014 07:26	3/12/2014 07:26	6/18/2014 07:10	7/22/2014 11:29	9/15/2014 07:07	12/19/201 4 07:16
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Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)

BCR-ABL (INTERNAL SCALE)	No range found	Undetecte d		Undetecte d	Undetecte d	Undetecte d	Undetecte d	Undetecte d
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Problem List:

Patient Active Problem List

Diagnosis

- Essential hypertension
- ELEVATED PSA
- LOC OSTEOARTH NOS-HAND
- Intrinsic Asthma, Unspecified
- Tracheomalacia
- FCHL (familial combined hyperlipidemia)
- Central Obesity
- Graves Disease
- Multinodular Goiter
- Fever, Recurrent
- Other Dyspnea and Respiratory Abnormality
- CML (Chronic Myeloid Leukemia)
- Hyperopia
- Regular Astigmatism
- Presbyopia
- Benign neoplasm of skin of trunk, except scrotum
- Myalgia
- Type II or unspecified type diabetes mellitus without mention of complication, not stated as uncontrolled
- Linear morphea
- Tinea pedis
- Tinea unguium
- CAD (coronary artery disease)
- Type 2 diabetes mellitus
- Stroke, acute, within 8 weeks

Previously Obtained Historical Data

PMH:

Past Medical History

Diagnosis

Date

- Other and unspecified hyperlipidemia
On treatment since 2005
- Unspecified essential hypertension
On treatment since 2006.



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Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)

- High triglycerides
- Obesity
- CML (chronic myelocytic leukemia)
- Tracheomalacia, congenital 2011
Will pass out with coughing, Controlled with cough suppressants.
- CAD (coronary artery disease) 11/14/13
*Cath Nov 2013 - Mid LAD myocardial bridge. D1 70% stenosis. RCA 40% mid and 70% PLV stenosis.
Not amenable to PCI. MEd management.*
- Diabetes mellitus
HbA1c Jan 2014 - increased from 6.1 in Aug 2013 to 7.4 in Jan 2014

PSH:

Past Surgical History

Procedure	Laterality	Date
<ul style="list-style-type: none"> • Inguinal hernia repair • Laproscopic gallbladder • Tonsil and adenoidectomy • Hx removal benign leg tumor 		

FH

Family History

Problem	Relation
• Stroke	Sister
• Stroke	Mother
• Cancer <i>Uterine</i>	Mother
• Heart Disease <i>CHF</i>	Brother
• Diabetes <i>Type 1</i>	Brother
• Heart Disease <i>Angina in 70's, pipe smoker</i>	Father
• Cancer <i>Colon</i>	Father
• Glaucoma	Father
• Cancer <i>Colon</i>	Brother
• Cancer <i>Cervical</i>	Daughter

Social:

History

Social History
• Marital Status: Married



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 Individual Notes

Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)

- Spouse Name: N/A
- Number of Children: N/A
- Years of Education: N/A

Occupational History

- Not on file.

Social History Main Topics

- Smoking status: Never Smoker
- Smokeless tobacco: Never Used
- Alcohol Use: Yes
- Comment: rare*
- Drug Use: No
- Sexual Activity: Not on file

Other Topics

Concern

- Not on file

Social History Narrative

*Works at Oregon State University in Information Technology;
 deeply involved with the "One Child One Laptop" Project.
 Wife lives in Washington, so he commutes to and from Albany multiple times per week.*

CAROTID EXAMINATION: 03/10/2015 - **IMPRESSION:** Abnormal study. On the right there is 50-79% stenosis of the internal carotid artery, less than 70%, and greater than 50% stenosis of the external carotid artery associated with a large amount of plaque at the bifurcation. At the left carotid bifurcation there is a large amount of plaque at the carotid bifurcation with less than 50% stenosis in the internal carotid artery, greater than 50% stenosis of the external carotid artery. Vertebral artery examination was normal on both sides.

ROS: 10 system ROS o/w negative except as noted above. See scanned written ROS form from today's visit. ROS form reviewed with patient.

Meds:

Current Outpatient Prescriptions

Medication	Sig
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- aspirin EC 81 mg Oral Tablet, Delayed Release (E.C.) Take 1 Tab by mouth once daily.



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Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)

- AVODART 0.5 mg oral capsule TAKE ONE CAPSULE BY MOUTH EVERY DAY
- benzonatate (TESSALON PERLES) 100 Take 1 Cap by mouth three times daily.
mg Oral capsule
- carvedilol 6.25 mg oral tablet Take 1 tablet by mouth two times daily. Administer with food.
- clopidogrel 75 mg oral tablet Take 1 tablet by mouth once daily.
- codeine-guaiFENesin 10-200 mg/5 mL Oral Liquid Take 5 mL by mouth every eight hours as needed.
- FISH OIL 1,000 mg Oral Capsule 1 cap daily
- FLUTICASONE 50 mcg/actuation nasal spray,suspension PLACE TWO SPRAYS IN EACH NOSTRIL TWICE DAILY
- levothyroxine 137 mcg oral tablet Take 1 tablet by mouth once daily. Indications:
HYPOTHYROIDISM
- lisinopril 10 mg oral tablet Take 1 tablet by mouth two times daily. Indications:
HYPERTENSION
- metFORMIN SR 500 mg oral tablet extended release 24 hr Take 2 tablets by mouth once daily. Administer with evening meal.
- MULTIPLE VITAMINS OR
- nilotinib 150 mg oral capsule Take 2 capsules by mouth once daily. Indications: Chronic Myelocytic Leukemia Accelerated Phase
- PREDNISONE 10 mg oral tablet TAKE 4 TABLETS BY MOUTH DAILY FOR 5 DAYS, THEN TAKE 2 TABLETS DAILY FOR 5 DAYS, THEN TAKE 1 TABLET DAILY FOR 5 DAYS.
- rosuvastatin 20 mg oral tablet Take 1 tablet by mouth once daily.
- tadalafil (CIALIS) 5 mg oral tablet Take 1 tablet by mouth once daily as needed. Not to exceed more than once daily. Indications: BENIGN PROSTATIC HYPERTROPHY
- TAMSULOSIN 0.4 mg oral capsule,extended release 24hr TAKE ONE CAPSULE BY MOUTH EVERY DAY
- tretinoin 0.025 % topical cream Apply to affected area every other day. Apply to affected area every other night and continue to taper down to only weekend use as needed.
- triamcinolone acetonide 0.1 % topical cream Apply to affected area three times daily. Apply thin film to affected areas.
- triamterene-hydrochlorothiazide 50-25 mg oral capsule Take 1 capsule by mouth once daily.

No current facility-administered medications for this visit.

Vitals: There were no vitals taken for this visit. Pain Score:

ECOG=0

General: Well developed, well nourished patient. Neuro: Alert and oriented x 3. Gait normal. Gaze conjugate. HEENT: No scleral icterus. Neck: No thyroid masses or tenderness. LN: No cervical, supraclavicular, axillary or inguinal lymphadenopathy. Chest: clear to auscultation and percussion. Heart: No increased JVD. Normal



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Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)

S1, S2. No murmur, rub of gallop. Abdomen: Normal BS, non-tender. No hepatosplenomegaly. No abdominal masses. Extremities: No clubbing, cyanosis or edema. Skin: No rashes, petechiae, or purpura.

Labs:

No visits with results within 1 Week(s) from this visit.

Latest known visit with results is:

Lab on 03/30/2015

Component	Date	Value
• AMYLASE, PLASMA	03/30/2015	64
• GLUCOSE, PLASMA (LAB)	03/30/2015	148*
• BUN, PLASMA (LAB)	03/30/2015	37*
• CREATININE PLASMA (LAB)	03/30/2015	1.79*
• EGFR AFRICAN- AMERICAN	03/30/2015	46*
• EGFR NON AFRICAN-AMERICAN	03/30/2015	38*
• SODIUM, PLASMA (LAB)	03/30/2015	130*
• POTASSIUM, PLASMA (LAB)	03/30/2015	5.8*
• CHLORIDE, PLASMA (LAB)	03/30/2015	101
• TOTAL CO2, PLASMA (LAB)	03/30/2015	23
• CALCIUM, PLASMA (LAB)	03/30/2015	9.0
• BILIRUBIN TOTAL	03/30/2015	1.0
• TOTAL PROTEIN, PLASMA (L*)	03/30/2015	6.9
• ALBUMIN, PLASMA (LAB)	03/30/2015	3.5
• ALK PHOS	03/30/2015	104
• AST(SGOT)	03/30/2015	20
• ALT (SGPT)	03/30/2015	26
• ANION GAP(ALB CORRECTED)	03/30/2015	7
• POTASSIUM CMNT	03/30/2015	No Hemo
• BILI T CMNT	03/30/2015	No Hemo
• AST CMNT	03/30/2015	No Hemo
• ANION GAP	03/30/2015	6
• MAGNESIUM,PLASMA	03/30/2015	2.5
• PHOSPHORUS, PLASMA (LAB)	03/30/2015	3.4
• URIC ACID, PLASMA (LAB)	03/30/2015	6.0
• BILIRUBIN DIRECT	03/30/2015	0.3
• BILI D CMNT	03/30/2015	No Hemo
• LD TOTAL, PLASMA	03/30/2015	139
• LD CMNT	03/30/2015	No Hemo
• LIPASE (LAB)	03/30/2015	344
• WHITE CELL COUNT	03/30/2015	6.49
• RED CELL COUNT	03/30/2015	4.46*
• HEMOGLOBIN	03/30/2015	11.4*
• HEMATOCRIT	03/30/2015	35.7*
• MCV	03/30/2015	80.0
• MCHC	03/30/2015	31.9
• RDW SD	03/30/2015	42.5
• PLATELET COUNT	03/30/2015	236
• MPV	03/30/2015	9.2*



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 Individual Notes

Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)

• NRBC%	03/30/2015	0.0
• NRBC#	03/30/2015	0.00
• NEUTROPHIL %	03/30/2015	67.1
• LYMPHOCYTE %	03/30/2015	17.1*
• MONOCYTE %	03/30/2015	10.3*
• EOS %	03/30/2015	4.2*
• BASO %	03/30/2015	0.8
• IMMATURE GRANULOCYTE%	03/30/2015	0.5
• NEUTROPHIL #	03/30/2015	4.36
• LYMPHOCYTE #	03/30/2015	1.11
• MONOCYTE #	03/30/2015	0.67
• EOS #	03/30/2015	0.27
• BASO #	03/30/2015	0.05
• IMMATURE GRANULOCYTE#	03/30/2015	0.03

Imaging: No images are attached to the encounter.

The patient received education about their disease--including education on management and f/u of their disease.

I discussed the results of the toxicity and efficacy lab monitoring test results with the patient.

Electronically Signed by Michael Heinrich, MD 04/09/15 2106

Progress Notes by Michael Heinrich, MD at 07/06/15 1356

Author: Michael Heinrich, MD	Service: (none)	Author Type: Physician
Filed: 07/07/15 1613	Encounter Date: 7/6/2015	Status: Signed
Editor: Michael Heinrich, MD (Physician)		

Medical Oncology Clinic

Primary Care Provider: Albert Dipiero, MD
 Referring Provider: Michael J Mauro, MD
 MEMORIAL SLOAN KETTERING CANCER CENTER
 1275 YORK AVE
 BOX 489
 NEW YORK, NY 10065

SUBJECTIVE: Mr. Pederson is a 69-year-old male with chronic-phase CML, currently on third-line treatment with nilotinib at a dose of 300 mg per day. Patient developed resistance on imatinib and was intolerant of bosutinib.

INTERVAL HISTORY: Since last being seen 3 months ago, the patient has continued to do well. He previously had some diarrhea potentially attributable to the nilotinib, but this is improved with the use of fiber. He denies nausea or abdominal pain. No shortness of breath, cough or chest pain. No skin rash. No peripheral edema. The patient has a history of stroke, but no recent symptoms of TIA or stroke. The patient

Exhibit 2



3181 S W Sam Jackson Park Pederson, Curtis R
 Road MRN: [REDACTED] DOB: [REDACTED], Sex: M
 Mailcode: OP17A Encounter date: 5/21/2018
 University Hospital South
 Portland OR 97239-3011
 HIM ROI Orders/Results

POTASSIUM, POC	4.7	3.4 - 5.0 mmol/L	—	42
TOTAL CO2, POC	23	22 - 29 mmol/L	—	42
CHLORIDE, POC	108	97 - 108 mmol/L	—	42
GLUCOSE, POC	108	70 - 99 mg/dL	H	42
CALCIUM TOTAL, POC	9.7	8.6 - 10.2 mg/dL	—	42
BUN, POC	37	6 - 20 mg/dL	H	42
CREATININE, POC	1.6	0.7 - 1.3 mg/dL	H	42
ALK PHOS, CMP POC	70	43 - 92 U/L	—	42
ALT, CMP POC	33	0 - 60 U/L	—	42
AST, CMP POC	32	0 - 41 U/L	—	42
BILIRUBIN TOTAL, CMP POC	0.8	0.3 - 1.2 mg/dL	—	42
ALBUMIN, CMP POC	3.7	3.5 - 4.7 g/dL	—	42
PROTEIN TOTAL, CMP POC	6.8	6.1 - 7.9 g/dL	—	42

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
42 - Unknown	OHSU - MARQUAM HILL, POINT OF CARE TESTS	Unknown	3181 SW. SAM JACKSON PARK ROAD PORTLAND OR 97239-3098	03/31/10 1531 - Present

Order Information

Date and Time 5/21/2018 8:43 AM	Department Center for Hematologic Malignancies at Multnomah Pavilion	Ordering/Authorizing Michael Heinrich, MD
Release Date/Time None	Start Date/Time 5/21/2018	End Date/Time None

Order Providers

Authorizing Provider Michael Heinrich, MD	Encounter Provider CHM MA	Billing Provider Michael Heinrich, MD
--	------------------------------	--

Associated Diagnoses

Diagnosis Description CML (chronic myeloid leukemia) (HCC)	ICD10 C92.10
--	-----------------

MRI STROKE BRAIN WO CONTRAST [125727524]	Resulted: 03/13/15 1101, Result status: Final result
Resulted by: Arzu Ozturk, MD Accession number: 17877317	Performed: 03/13/15 0705 - 03/13/15 0705

Components

Component MR STROKE BRAIN WITHOUT CONTRAST	Value --	Reference Range —	Flag —	Lab 31
Result: EXAM: MRI brain without contrast				

CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on the 10th day of April, 2020, I arranged for service of the foregoing DECLARATION OF JENNIFER L. CAMPBELL IN SUPPORT OF DEFENDANT NOVARTIS PHARMACEUTICALS CORPORATION'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT AND MEMORANDUM OF LAW IN SUPPORT to the parties to this action via the Court's CM/ECF system as follows:

Brad J. Moore, WSBA #21802
Email: brad@stritmatter.com
STRITMATTER KESSLER
WHELAN KOEHLER MOORE
3600 15TH Ave., W., Ste. 300
Seattle, WA 98119
Phone: (206) 448-1777

Attorneys for Plaintiff

/s/ Jennifer L. Campbell
Jennifer L. Campbell, WSBA #31703

CERTIFICATE OF SERVICE - 1

SCHWABE, WILLIAMSON & WYATT, P.C.
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1420 5th Avenue, Suite 3400
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Telephone 206-622-1711